

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
WESTERN DIVISION

KELLY and SHERYL RUTHERFORD,)	
)	
Plaintiffs,)	No. 1:13-cv-24
)	
vs.)	DEFENDANTS' MOTION FOR AN
)	EXTENSION OF TIME TO FILE
PFIZER LABS, PFIZER, INC., a)	PROPOSED SCHEDULING ORDER
corporation,)	
)	UNRESISTED
Defendant.)	

Pursuant to Local Rule 7, Defendant Pfizer, Inc. moves for an extension of time in which to file the proposed scheduling order and states:

1. This case was filed on June 13, 2013 and removed to this Court on September 18, 2013.

2. Pursuant to Local Rule 81(b), a proposed scheduling order is due on or about December 17, 2013.

3. This case involves allegations pertaining to a medication known as Chantix. *See* Plaintiff's Removed Petition ¶3.

4. On October 4, 2013, Defendant filed a Motion for Transfer of this case for coordinated pre-trial proceedings to the Northern District of Alabama as a tag-along action in MDL No. 2092, *In re Chantix (Varenicline) Products Liability Litigation*, under 28 U.S.C. § 1407. *See* MDL No. 2092 (Doc. No. 239).

5. The Judicial Panel on Multidistrict Litigation ("JPML") has not yet ruled on Defendant's Motion to Transfer. Based upon information from the JPML clerk's office, it is anticipated that Defendant's Motion will be submitted at the January 30, 2014 hearing date. It is further anticipated that the JPML will rule on the Motion within 30-45 days.

6. Defendant seeks an extension of time to submit the proposed scheduling order (in the event this case is not transferred) so that it is due 2 weeks after any order by the JPML that denies Defendant's Motion to Transfer.

7. Good cause supports this Motion and it is in the interest of judicial economy as a scheduling order will not be necessary in this Court if the case is transferred. If not transferred, an extension of time until the transfer issue is decided will allow the parties to reach a more realistic agreement as to deadlines. The requested extension will not prejudice any party.

8. This deadline has not been previously extended. No other deadlines in this case have been set.

9. Defense counsel has consulted with Plaintiffs' counsel, Chester Woodburn, and Plaintiffs' counsel has indicated Plaintiffs do not resist this Motion.

WHEREFORE for the reasons set forth above, Defendant requests an extension of time in which to file a proposed scheduling order until a date that is 2 weeks after any order by the Judicial Panel for Multidistrict Litigation that denies Defendant's Motion for Transfer in MDL No. 2092.

/s/ Nancy J. Penner

ROBERT D. HOUGHTON AT0003739

NANCY J. PENNER AT0006146

for

SHUTTLEWORTH & INGERSOLL, P.L.C.

500 U.S. Bank Bldg., P.O. Box 2107

Cedar Rapids, IA 52406

PHONE: (319) 365-9461

FAX: (319) 365-8443

E-MAIL: rdh@shuttleworthlaw.com

njp@shuttleworthlaw.com

ATTORNEYS FOR DEFENDANT

PFIZER LABS, PFIZER, INC., a corporation

Copy to:

David L. Brown
Chester C. Woodburn
Alexander E. Wonio
HANSEN, McCLINTOCK & RILEY
520 Walnut Street - 5th Floor US Bank Bldg.
Des Moines, IA 50309

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this document was served upon counsel of record for each party to the action in compliance with FRCP 5 on December 3, 2013 by:

☒ Electronically via ECF for ECF registrants
☐ U.S. Mail _____
☐ Fax _____
☐ Fed Ex _____
☐ Hand Delivered _____
☐ other _____

/s/ C. McGovern